  
Alfred C. Smith  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2004 DEC -8 AM 10:35

Docket No. TSCA-08-2004-0002

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF: )  
CONRAD GUERRERO, )  
5 Temple Drive )  
Pueblo, Colorado 81005 )  
Respondent. )

**CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency, Region 8 ("EPA"), by its undersigned representatives and Respondent, Conrad Guerrero, pro se, hereby consent and agree as follows:

1. On September 1, 2004, Complainant issued a Complaint alleging that Respondent violated TSCA § 409 by failing to comply with 40 C.F.R. Part 745 Subpart F, promulgated pursuant to the Residential Lead-Based Paint Hazard Reduction Act of 1992, codified at 42 U.S.C. § 4851 et seq.
2. EPA has jurisdiction over this matter pursuant to section 16 (a) of the Toxic Substances Control Act ("TSCA"), 15 United States Code § 2615.
3. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.
4. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint, or this Consent Agreement.
5. This Consent Agreement, upon incorporation into a final consent order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.
6. Respondent consents and agrees that not more than thirty (30) calendar days from the date of a signed final order in this matter, Respondent shall pay a civil penalty in the amount of \$50.00 (Fifty Dollars and no cents) in the manner described below in this paragraph:

- a. Payment is due within 30 calendar days from the date written on the Final Consent Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. The date the payment is made is considered to be the date of receipt of the payment at the Mellon Bank described below. Payments must be received by 11:00 a.m. EST to be considered as received that day.
- b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank  
Lockbox 360859  
Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859  
Mellon Client Service Center Rm 670  
500 Ross Street  
Pittsburgh, PA 15262-0001

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004  
TREAS NYC/CTR/  
BNF=/AC-68011008

Copies of the check shall be sent to:

Regional Hearing Clerk  
U.S. EPA, Region 8 (8RC)  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

and

Ms. Brenda South  
Lead Enforcement Coordinator  
U.S. EPA, Region 8 (8ENF-AT)  
999 18th Street, Suite 300

Denver, Co 80202-2466

- c. In the event payment is not received by the specified due date, **interest accrues from the date of the final consent order, not the due date**, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1<sup>st</sup> late day, 61 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 61<sup>st</sup> day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per year penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> day from the date the final consent order is signed). Payments are first applied to accrued interest, penalty and/or handling charge; the balance is then applied to the outstanding principal amount.
- e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
- f. Respondent further agrees and consents that if Respondent fails to pay the entire penalty amount within 30 days of the date on the final order, the full penalty amount proposed in the Complaint shall become immediately due and owing by Respondent.

7. The penalty specified in paragraph 6, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

8. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the Toxic Substances Control Act and its implementing regulations.

9. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

10. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other Federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this consent Agreement.

11. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the party he/she represents to the terms and conditions of this Consent Agreement.

12. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

13. Each party shall bear its own costs and attorney fees in connection with this matter.

14. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant.

Date: 12/3/04

By: Martin Hestmark  
Martin Hestmark, Deputy Director  
Air & Toxics Technical Enforcement Program  
Office of Enforcement  
Compliance and Environmental Justice

Date: 12/6/04

By: David J. Janik  
David J. Janik, Supervisor  
Legal Enforcement Program  
Office of Enforcement  
Compliance and Environmental Justice

Date: 12-2-04

By: Alicia N. Hoegh  
Alicia N. Hoegh, Enforcement Attorney  
U.S. EPA, Region 8  
999-18th Street, Suite 300 (ENF-L)  
Denver, Colorado 80202-2466  
Telephone No. (303) 312-6876

Date: 11-26-04

By: Conrad Guerrero  
Conrad Guerrero  
5 Temple Drive  
Pueblo, Colorado 81005  
Telephone No. (719) 560-0673

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **CONRAD GUERRERO, DOCKET NO.: TSCA-08-2004-0002** was filed with the Regional Hearing Clerk on December 8, 2004.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Alicia Hoegh, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 8, 2004, to:

Conrad Guerrero  
5 Temple Drive  
Pueblo, CO

Pouch mailed and telefaxed to:

Honorable Spencer Nissen  
Administrative Law Judge  
U. S. Environmental Protection Agency  
Ariel Rios Building (1900L)  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

December 8, 2004

  
Tina Artemis  
Regional Hearing Clerk



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